

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Western Dist., Austin Div. on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 1:10-CV-254 JN	DATE FILED 4/13/2010	U.S. DISTRICT COURT Western Dist., Austin Div.
PLAINTIFF DDb Technologies L.L.C.		DEFENDANT NFL Enterprises LLC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 see attached		
2 7,373,587		
3 5,526,479		
4 5,671,347		
5 6,204,842		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK
1	
2	
3	
4	
5	

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK WILLIAM G. PUTNICKI	(BY) DEPUTY CLERK 	DATE APR 14 2010
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

Respectfully Submitted,

April 13, 2010

By: /s/ James G. Ruiz

James G. Ruiz
State Bar No. 17385860
Winstead PC
401 Congress Ave., Ste. 2100
Austin, TX 78701
Tel: (512) 370-2818
Fax (512) 370-2850

Michael D. Gannon
Leif R. Sigmond, Jr.
Paul A. Kafadar
**McDonnell Boehnen
Hulbert & Berghoff LLP**
300 S. Wacker Dr., Ste. 3100
Chicago, IL 60606
Tel: (312) 913-0001
Fax: (312) 913-0002

**Attorneys for Plaintiff
DDB Technologies L.L.C.**

website, NFL.com, which is available to, accessed by, and subscribed to by users, customers, and potential customers of NFL within this judicial district.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has jurisdiction under 35 U.S.C. §§ 271, *et seq.*, and 28 U.S.C. §§ 1331 and 1338.

4. This Court has personal jurisdiction over NFL pursuant to Tex. Civ. Prac. & Rem. Code § 17.041 *et seq.* Personal jurisdiction generally exists over NFL because NFL has minimum contacts with this forum as a result of business regularly conducted within the State of Texas and within this district, and, on information and belief, specifically as a result of, at least, committing the tort of patent infringement within Texas and this district. Personal jurisdiction also exists because, on information and belief, NFL has entered into numerous contracts with customers in Texas for products and services offered by NFL, which products and services include, among other things, the knowing and repeated transmission of computer files over the Internet. This Court's jurisdiction over NFL comports with the constitutional standards of fair play and substantial justice and arises directly from the NFL's purposeful minimum contacts with the State of Texas.

5. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

6. Although NFL has engaged in business in the State of Texas, NFL has not designated an agent for service in the State. Therefore, the Secretary of the State is an agent for service of process for NFL pursuant to Tex. Civ. Prac. & Rem. Code § 17.044.

THE PATENTS-IN-SUIT

7. On June 11, 1996, United States Patent No. 5,526,479 ("the '479 Patent"), entitled "Method and Apparatus for Broadcasting Live Events to Another Location and Producing a Computer Simulation of the Events at that Location," was duly and legally issued by the United States Patent and Trademark Office to David R. Barstow and Daniel W. Barstow. A copy of the '479 Patent is attached hereto as Exhibit A.

8. On September 23, 1997, United States Patent No. 5,671,347 ("the '347 Patent"), entitled "Method and Apparatus for Broadcasting Live Events to Another Location and Producing a Computer Simulation of the Events at that Location," was duly and legally issued by the United States Patent and Trademark Office to David R. Barstow and Daniel W. Barstow. A copy of the '347 Patent is attached hereto as Exhibit B.

9. On March 20, 2001, United States Patent No. 6,204,862 ("the '862 Patent"), entitled "Method and Apparatus for Broadcasting Live Events to Another Location and Producing a Computer Simulation of the Events at that Location," was duly and legally issued by the United States Patent and Trademark Office to David R. Barstow and Daniel W. Barstow. A copy of the '862 Patent is attached hereto as Exhibit C.

10. On May 13, 2008, United States Patent No. 7,373,587 ("the '587 Patent"), entitled "Representing Sub-Events With Physical Exertion Actions," was duly and legally issued by the United States Patent and Trademark Office to David R. Barstow and Daniel W. Barstow. A copy of the '587 Patent is attached hereto as Exhibit D.

11. The '479, '347, '862, and '587 Patents are referred to collectively hereinafter as "the DDB Patents."

12. David R. Barstow and Daniel W. Barstow assigned the DDB Patents to DDB. DDB owns all right, title and interest in and to the DDB Patents.

FACTS

13. In the 1980s and continuing through the early 1990s, Dr. David R. Barstow, a Partner in and President of DDB, along with his brother, Daniel W. Barstow, a Partner in DDB, developed a method and apparatus for providing to remote viewers simulations of live sporting events including, for example, football games, etc. All of the technology required to produce such simulations is embodied in the DDB Patents.

14. Without DDB's permission, NFL began providing simulation products/services over the Internet that embody the invention(s) set forth in the DDB patents. For example, NFL's "Game Center/Drive Chart" product/service permits remote users to watch a simulation of live sporting events including, for example, football games. *See, e.g.,* Exhibit E.

15. NFL has been and still is infringing the DDB Patents by making, selling, offering for sale, and using products and/or services embodying the invention(s) set forth in the DDB Patents including, without limitation, NFL's "Game Center/Drive Chart" product/service available through NFL's NFL.com web site, and by inducing and/or contributing to the infringement of the DDB Patents by others.

COUNT I: INFRINGEMENT OF THE '479 PATENT

16. DDB repeats and realleges each of the allegations of paragraphs 1-15 as if set forth in full.

17. NFL has infringed and continues to infringe the '479 Patent by making, selling, offering for sale, and using products and/or services covered by claims of the '479 Patent

(including, for example, NFL's live game simulation product/service "Game Center/Drive Chart"), without DDB's authorization in violation of 35 U.S.C. § 271(a).

18. NFL has in the past and continues to promote and advertise its live game simulation products/services by providing links to its live game simulation products/services on its website.

19. NFL's live game simulation products/services are not staple articles or commodities of commerce suitable for substantial non-infringing use.

20. NFL's actions have constituted and continue to constitute active inducement of and contributory infringement of the '479 patent.

21. On information and belief, NFL's continued acts of infringement have been, and will continue to be, wanton and willful.

22. NFL's infringing activities have damaged and continue to damage DDB. Upon information and belief, NFL will continue to infringe the '479 Patent, causing irreparable harm to DDB unless enjoined by this Court.

COUNT II INFRINGEMENT OF THE '347 PATENT

23. DDB repeats and realleges each of the allegations of paragraphs 1-22 as if set forth in full.

24. NFL has infringed and continues to infringe the '347 Patent by making, selling, offering for sale, and using products and/or services covered by claims of the '347 Patent, (including, for example, NFL's live game simulation product/service "Game Center/Drive Chart"), without DDB's authorization in violation of 35 U.S.C. § 271(a).

25. NFL has in the past and continues to promote and advertise its live game simulation products/services by providing links to its live game simulation products/services on its website.

26. NFL's live game simulation products/services are not staple articles or commodities of commerce suitable for substantial non-infringing use.

27. NFL's actions have constituted and continue to constitute active inducement of and contributory infringement of the '347 patent.

28. On information and belief, NFL's continued acts of infringement have been, and will continue to be, wanton and willful.

29. NFL's infringing activities have damaged and continue to damage DDB. Upon information and belief, NFL will continue to infringe the '347 Patent, causing irreparable harm to DDB unless enjoined by this Court.

**COUNT III
INFRINGEMENT OF THE '862 PATENT**

30. DDB repeats and realleges each of the allegations of paragraphs 1-29 as if set forth in full.

31. NFL has infringed and continues to infringe the '862 Patent by making, selling, offering for sale, and using products and/or services covered by claims of the '862 Patent (including, for example, NFL's live game simulation product/service "Game Center/Drive Chart"), without DDB's authorization in violation of 35 U.S.C. § 271(a).

32. NFL has in the past and continues to promote and advertise its live game simulation products/services by providing links to its live game simulation products/services on its website.

33. NFL's live game simulation products/services are not staple articles or commodities of commerce suitable for substantial non-infringing use.

34. NFL's actions have constituted and continue to constitute active inducement of and contributory infringement of the '862 patent.

35. On information and belief, NFL's continued acts of infringement have been, and will continue to be, wanton and willful.

36. NFL's infringing activities have damaged and continue to damage DDB. Upon information and belief, NFL will continue to infringe the '862 Patent, causing irreparable harm to DDB unless enjoined by this Court.

**COUNT IV
INFRINGEMENT OF THE '587 PATENT**

37. DDB repeats and realleges each of the allegations of paragraphs 1-36 as if set forth in full.

38. NFL has infringed and continues to infringe the '587 Patent by making, selling, offering for sale, and using products/services covered by claims of the '587 Patent, (including, for example, NFL's live game simulation product/service "Game Center/Drive Chart"), without DDB's authorization in violation of 35 U.S.C. § 271(a).

39. NFL has in the past and continues to promote and advertise its live game simulation products/services by providing links to its live game simulation products/services on its website.

40. NFL's live game simulation products/services are not staple articles or commodities of commerce suitable for substantial non-infringing use.

41. NFL's actions have constituted and continue to constitute active inducement of and contributory infringement of the '587 patent.

42. On information and belief, NFL's continued acts of infringement have been, and will continue to be, wanton and willful.

43. NFL's infringing activities have damaged and continue to damage DDB. Upon information and belief, NFL will continue to infringe the '587 Patent, causing irreparable harm to DDB unless enjoined by this Court.

REQUEST FOR JURY TRIAL

44. Pursuant to FED. R. CIV. P. 38, DDB demands a trial by jury of any issue triable of right by a jury.

PRAYER FOR RELIEF

THEREFORE, plaintiff DDB prays for relief against NFL as follows:

A. That the DDB Patents be adjudged infringed by NFL and that the infringement be held to be willful;

B. That DDB be awarded compensatory damages for past infringement of the DDB Patents by NFL in an amount no less than a reasonable royalty, in a sum to be determined at trial, and that said damages be trebled in view of the willful and deliberate nature of the infringement;

C. That NFL, its officers, agents, servants, employees and attorneys, and other persons in active concert or participation with NFL be preliminarily and permanently enjoined from further infringement of the DDB-Patents;

D. That NFL be ordered to deliver to DDB for destruction all infringing products and systems in its possession;

E. That this case be declared an exceptional case under 35 U.S.C. § 285 as to NFL, and that DDB be awarded its attorneys' fees incurred in this action.